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2 LONG & ASSOCIATES
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5 SCOTT DAY and DIGIMEDIA.COM, L.P.

6
7 UNITED STATES DISTRICT COURT
8 CENTRAL DISTRICT OF CALIFORNIA

9 KORIE SCHMIDT,

10 Plaintiff,

11 v.

12 SCOTT DAY; and
13 DIGIMEDIA.COM, L.P.,

14 Defendants.
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CASE NO.: 2:23-cv-06433-MWF-RAO
[The Honorable Michael W. Fitzgerald]

**AMENDED NOTICE OF MOTION
AND MOTION TO DISMISS FOR
LACK OF PERSONAL
JURISDICTION AND FOR
INSUFFICIENT SERVICE OF
PROCESS PURSUANT TO FRCP
12(b)(2) AND 12(b)(5) FILED BY
DEFENDANTS DIGIMEDIA, L.P.
AND SCOTT DAY; DECLARATION
OF MICHAEL A. LONG IN SUPPORT
THEREOF; DECLARATION OF
SCOTT DAY IN SUPPORT THEREOF**

Revised Hearing Information:

Date: September 18, 2023

Time: 10:00 AM

Room: Courtroom 5A

*[Removed from Los Angeles County
Superior Court Action No. 23STCV16148]*

Complaint Filed: July 11, 2023

1 The Court on August 21, 2023 set the hearing date on said motion to dismiss for
2 September 18, 2023; accordingly, NOTICE IS GIVEN that Defendants SCOTT DAY
3 and DIGIMEDIA.COM, L.P. that on September 18, 2023 at 10:00 a.m. in the United
4 States District Court, Central District of California, First Street Courthouse, 350 West
5 First Street, Courtroom 5A, Los Angeles, California 90012, will and do hereby move
6 this Court for an order dismissing the complaint filed by Plaintiff KORIE SCHMIDT
7 under FRCP Rule 12(b)(2) and 12(b)(5).

8 This motion is made pursuant to L.R. 7-3 by email and phone call meet and
9 confer attempts by Defendant via their counsel from August 8-11, 2023 to reach the
10 Plaintiff who remained unresponsive, leaving the matter unresolved and therefore
11 necessitating the present motion. (Long Decl., ¶¶ 3-4, **Exhibits A & B**) This motion is
12 made without prejudice as to Defendants' rights under 12(b)(6).

13 The instant motion is based on the accompanying memorandum of points and
14 authorities, the pleadings and filings of record, request for judicial notice, and the
15 declaration of Michael A. Long filed herewith.

16
17 Respectfully submitted,
18 LONG & ASSOCIATES

19 /s/ Michael A. Long

20 Michael A. Long, Esq.
21 Attorney of Record for Defendants,
22 SCOTT DAY and DIGIMEDIA.COM, L.P.
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MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF MOTION TO DISMISS
FOR LACK OF PERSONAL JURISDICTION AND FOR INSUFFICIENT
SERVICE OF PROCESS PURSUANT TO FRCP 12(b)(2) AND 12(b)(5)
FILED BY DEFENDANTS DIGIMEDIA, L.P. AND SCOTT DAY

I. INTRODUCTION

On or about July 11, 2023, Plaintiff KORIE SCHMIDT, acting *pro se*, filed an action styled as “Complaint for Inkunction (*sic*) and Damages and Mandamus of Writ” in the Los Angeles County Superior Court which, as best can be understood by Defendants, attempts to allege trademark claims arising under the Lanham Act in relation to the Defendants’ alleged operation of the internet domain name bonzai.com. Defendants removed the action to this District pursuant to 28 U.S.C. §§ 1331 & 1338(b) (federal question and original federal jurisdiction over Lanham Act claims) and 28 U.S.C. § 1446 (procedure for removal).

Defendants now seek dismissal of this Action pursuant to FRCP Rule 12(b)(5) on the basis of defective service -- peculiarities in the manner in which the Plaintiff alleges to have effected service of this action.

Defendants now further seek dismissal pursuant to FRCP Rule 12(b)(2) on the basis of lack of personal jurisdiction. Simply put, the Complaint is premised on alleged violation of Plaintiff’s rights by virtue of accessibility in this District of a website which is operated by Defendant’s in Oklahoma using a domain name registered with a registrar in Canada. Far from alleging facts that would give rise to personal jurisdiction based upon activities directed into this District via an interactive website, the Complaint affirmatively pleads:

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1 This [action] falls within the jurisdiction of the court
 2 because the website is being pumped from the server at
 3 TuCows, through the internet to reach Los Angeles, Ca.

4 (Complaint at 2:17-18, ¶ “iv.”)

5 Plaintiff concedes that ‘bonzai.com’ is a bullshit website.
 6 It doesn’t do anything except generate ad revenue - if
 7 that.

8 (Complaint at 3:18-19, ¶ 8, 2nd point)

9 While “bullshit” is a subjective assessment, the parties are in agreement that the
 10 website in question does not do anything other than to display advertisements. As
 11 discussed below, these allegations of the Complaint, without any further elaboration
 12 required, define a classic “passive” website with no interactive features which must
 13 fail under any formulation of various criteria adopted to exercise personal jurisdiction
 14 over foreign defendants premised on operation of website.

15 **II. DEFECTIVE SERVICE**

16 Dismissal is warranted under FRCP Rule 12(b)(5) for insufficient service of
 17 process. The Plaintiff’s “proof of service by mail” purports to have been made by a
 18 “Daniela Schmidt” from Mesa, Arizona (outside of this District) with her signature;
 19 however the USPS postal origin zip code is 91505 (Long Decl., ¶5-6, **Exh. C & D**;
 20 RJN, **Exh. C** “Origin: 91505”) which corresponds to Burbank, California (RJN, **Exh.**
 21 **A**) -- not Mesa, Arizona (RJN, **Exh. B**). It is at best unclear from where the materials
 22 were sent and by whom. Moreover, the handwriting of “Daniela Schmidt” and that of
 23 the Plaintiff readily appear to be remarkably homogenous, which the Defendants
 24 reasonably believe to indicate that only one person signed for both identities (Long
 25 Decl., ¶5-6, **Exhs. C & D**; RJN, **Exh. C**). Therefore, dismissal is warranted and
 26 appropriate under Rule 12(b)(5).

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1 III. PERSONAL JURISDICTION

3 A. LEGAL STANDARD

4 When a defendant moves to dismiss a case for lack of personal jurisdiction
5 under Rule 12(b)(2), the plaintiff bears the burden to prove that the court may
6 properly exercise personal jurisdiction over the defendant. *See Pebble Beach Co. v.*
7 *Caddy*, 453 F.3d 1151, 154 (9th Cir. 2006).

8 When personal jurisdiction is premised upon activities conducted by means of a
9 website accessible via the internet, the Ninth Circuit has long distinguished between
10 “passive” websites that merely make information available to visitors and
11 “interactive” websites, where “users can exchange information with the host computer
12 when the site is interactive.” *Cybersell, Inc. v. Cybersell, Inc.*, 130 F.3d 414, 418 (9th
13 Cir. 1997).

14 It is well settled that “[m]ere passive operation of a website is insufficient to
15 demonstrate express aiming.” *Will Co. v. Ka Yeung Lee*, 47 F.4th 917 at 922 (9th Cir.
16 2022); *see Mavrix Photo, Inc. v. Brand Techs., Inc.*, 647 F.3d 1218 at 1223 (9th Cir.
17 2011) (“Not all material placed on the Internet is, solely by virtue of its universal
18 accessibility, expressly aimed at every state in which it is accessed.”).

19 Operation of an interactive website does not, by itself, establish express aiming.
20 Otherwise, a website operator would be subjected to specific jurisdiction in every
21 forum in which the website was visible. That result would be too broad to comport
22 with due process. *See CollegeSource, Inc. v. AcademyOne, Inc.*, 653 F.3d 1066, 1075-
23 76 (9th Cir. 2011) (“ ‘If the maintenance of an interactive website were sufficient to
24 support general jurisdiction in every forum in which users interacted with the website,
25 the eventual demise of all restrictions on the personal jurisdiction of state courts
26 would be the inevitable result.’ (citation and internal quotation marks omitted).”)

1 To establish purposeful availment in the forum, the website must be operated in
 2 conjunction with conduct expressly aimed at the forum state. *Mavrix*, 647 F.3d at
 3 1229 (quoting *Rio Props., Inc. v. Rio Int’l Interlink*, 284 F.3d 1007, 1020 (9th Cir.
 4 2002)). The interactivity of the website is one of several factors that can be relevant,
 5 as well as whether the operators of a website “can be said to have ‘expressly aimed’
 6 at a forum where a website ‘with national viewership and scope appeals to, and profits
 7 from, an audience in a particular state.’” *AMA Multimedia, LLC v. Wanat*, 970 F.3d
 8 1201, 1210 (9th Cir. 2020) (quoting *Mavrix*, 647 F.3d at 1231).

9 When the website itself is the only jurisdictional contact, the jurisdictional
 10 analysis turns on whether the site had a forum-specific focus or the defendant
 11 exhibited an intent to cultivate an audience in the forum. *See, e.g., Mavrix*, 647 F.3d at
 12 1222, 1229-31 (holding that the defendant expressly aimed the content of “celebrity-
 13 gossip.net” at California because the site had a specific focus on the California-centric
 14 entertainment industry); *AMA*, 970 F.3d at 1210 (concluding that the defendant’s
 15 website “lack[ed] a forum-specific focus” because “the market for adult content is
 16 global”); *Will Co.*, 47 F.4th at 924-26 (ruling that the defendant’s website hosting and
 17 legal compliance documents showed that the defendant intentionally “appealed to and
 18 profited from” a specific forum).

21 **B. APPLICATION TO THE FACTS**

22 The Complaint alleges Defendant Digimedia, L.P. to have a “principal place of
 23 business... in the city of Edmond, in the County of Oklahoma, State of Oklahoma.”
 24 The Complaint further alleges Defendant Scott Day to be an individual “connected
 25 with Digimedia.com”. The Plaintiff further claims its agent “Daniela Schmidt” to
 26 have mailed the Complaint to Oklahoma to attempt to serve the Defendants. The
 27

1 Complaint does not allege either Defendant to have any contacts with or to have
2 engaged in the conduct of any activity whatsoever in this District.

3 Instead of alleging any factual basis for general jurisdiction over the alleged
4 Oklahoma Defendants, Plaintiff's jurisdictional pleading is a classic statement of
5 circumstances that are uniformly held up as lacking sufficient contacts to establish
6 specific jurisdiction by mere accessibility of a website, to wit:

7 This [action] falls within the jurisdiction of the court
8 because the website is being pumped from the server
9 at TuCows, through the internet to reach Los Angeles,
Ca.

10 (Complaint at 2:17-18 ¶ "iv") The reference to "TuCows" at that point, and elsewhere
11 in the Complaint appears to be a reference to an internet domain registrar
12 Tucows.com, which is operated in Canada.¹ The Plaintiff also refers to the domain
13 registrar variously as "Tucows" and "Tucows.com" in the Complaint at ¶8, 11, 9, 12.

14 The Complaint alleges that Plaintiff contacted TuCows via telephone using a
15 (416) area code telephone number (Complaint, ¶ 5,8). The Court may take judicial
16 notice that the (416) area code corresponds to Toronto, Canada.² The Complaint
17 further alleges that Plaintiff attempted to contact Defendants via a (940) area code
18 telephone number. (Complaint ¶8, l. 23).)

19 In any event, the Plaintiff alleges that the website to be "pumped from the
20 server at TuCows through the internet to reach Los Angeles," which fairly suggests
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23 ¹ See, *Holley Performance Products, Inc. v. Tucows, Inc.*, No. 1:10-CV-180, at *2 n.1
24 (W.D. Ky. Apr. 12, 2011) ("Tucows.com is a wholly-owned subsidiary of Tucows
25 (Delaware) Inc., which is a wholly-owned subsidiary of Tucows, Inc. ... Tucows, Inc.,
is a Pennsylvania corporation with its principal office in Toronto, Canada.")

26 ² See, *Eliman v. Law Office of Weltman*, No. 12-cv-01599-DMG (FMOx), 2013 WL
27 12119720, at *4 (C.D. Cal. Jan. 2, 2013) (taking judicial notice that the area code 310
includes the West Los Angeles area).

1 the Plaintiff understands and intends to convey that the origin from which the website
2 is “pumped” to be located outside of this District.

3 Hence, insofar as the Defendants understand the Complaint, the Plaintiff alleges
4 that the website accessible in California at <www.bonzai.com> is operated by the
5 Defendants in Oklahoma and “pumped through the internet” from Tucows in Canada.

6 Concerning the level of interactivity of the website accessible at
7 www.bonzai.com the Complaint states “Plaintiff found the Defendant’s website
8 obtaining advertising revenue” (Complaint ¶4), and admits:

9 Plaintiff concedes that ‘bonzai.com’ is a bullshit
10 website. It doesn’t do anything except generate ad
revenue - if that.

11 (Complaint at 3:18-19, ¶ 8, 2nd point) The Defendants enthusiastically agree with
12 Plaintiff’s observation the website at bonzai.com “doesn’t do anything” other than to
13 display advertising. Among the various formulas by which courts have assessed the
14 “level of interactivity” of a website in any jurisdictional analysis of claims premised
15 entirely on internet contacts, the website alleged to be operated by Defendants sits at
16 the bottom of the scale as a prime example of a non-interactive website which the
17 Plaintiff concisely and accurately alleges “doesn’t do anything.”

18 The Complaint alleges the Defendants located in Oklahoma operate a website
19 which “doesn’t do anything” other than to be “pumped from the server at TuCows,” in
20 Canada, “to reach Los Angeles, Ca.”

21 Accordingly, the Complaint must be dismissed for lack of personal jurisdiction
22 for not just merely failing to allege facts on which a finding of personal jurisdiction
23 over the Defendants might be premised, but for affirmatively alleging foreign
24 Defendants’ operation of a passive website which “doesn’t do anything”, thus defining
25 the classic example of web-based activity in which the exercise of personal
26 jurisdiction is inappropriate.

1 **IV. CONCLUSION**

2 Based on the foregoing, the motion to dismiss should be GRANTED for
3 insufficient service of process and/or lack of personal jurisdiction.

4
5 Respectfully submitted,
6 LONG & ASSOCIATES

7 /s/ Michael A. Long
8 Michael A. Long, Esq.
9 *Attorney for Defendants,*
10 *SCOTT DAY and DIGIMEDIA.COM, L.P.*
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DECLARATION OF MICHAEL A. LONG

I, Michael A. Long, declare:

1. I am a licensed attorney in California and am the attorney of record for Defendants SCOTT DAY and DIGIMEDIA.COM, L.P. in the above-captioned matter styled as *Korie Schmidt v. Scott Day, et al.*, United States District Court Case No. 2:23-cv-06433-MWF-RAO which is the present removal action from the Los Angeles Superior Court, State of California, *Korie Schmidt v. Scott Day, et al.*, LACSC Case No. 23STCV16148 (“State Action”). The facts stated herein are within my personal knowledge. If called to testify I would and could testify competently there too.

2. I make this declaration in support of Defendants SCOTT DAY and DIGIMEDIA.COM, L.P.’s motion to dismiss the complaint filed by Plaintiff, Korie Schmidt.

3. On or about August 8, 2023, I reached out to the plaintiff to meet and confer regarding Defendants’ contemplated motion to dismiss stating the grounds for the motion, but I did not receive any response from the Plaintiff. Attached hereto as **Exhibit A** is a true and correct copy of my August 8, 2023 email to Plaintiff Korie Schmidt.

4. On or about August 11, 2023, I called Mr. Schmidt’s phone number listed on his papers (310) 600-2278, to continue meet and confer and left a voicemail. I also discovered his business from his voicemail greeting and forwarded my August 8 email to his business email, but did not receive any response to my phone call with voicemail, or my further email. Attached hereto as **Exhibit B** is a true and correct copy of my August 11, 2023 email to Plaintiff.

5. On or about July 11, 2023, an envelope was deposited filed by Plaintiff Schmidt in the United States Postal Service; the Plaintiff’s “Proof of Service By Mail” alleges that a “Daniela Schmidt” from Mesa Arizona served the papers, but the origin zip code from the United States Postal Service shown on the USPS envelope reveals

1 that the mailing actually originated from zip code 91505 which corresponds to
2 Burbank, California. Attached hereto as **Exhibit C** is a true and correct copy of the
3 envelope of said mailing.

4 6. Attached hereto as **Exhibit D** is a true and correct copy of the alleged
5 Plaintiff's "Proof of Service By Mail" in the State Court Action.

6 I declare the foregoing to be true and correct subject to penalty of perjury under
7 the laws of the United States. Executed on August 21, 2023 in Los Angeles,
8 California.

9 /s/ Michael A. Long
10 Michael A. Long, Declarant
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EXHIBIT A



Christopher Anderson <christopher.lxa@gmail.com>

RE: Schmidt v. Digimedia: Meet and Confer**Christopher Anderson** <christopher.lxa@gmail.com>

Tue, Aug 8, 2023 at 2:40 PM

To: "korieschmidt1@gmail.com" <korieschmidt1@gmail.com>, korie_schmidt@csumb.edu

Cc: mlong@aexius.com, john@johnberryhill.com

Dear Mr. Schmidt:

On behalf of Mr. Long:

This is a meet and confer regarding my clients Digimedia.com, L.P. and Scott Day's contemplated motion to dismiss for lack of personal jurisdiction under FRCP Rule 12(b)(2). To explain the grounds for this contemplated motion, it is based on their mere presence on the Internet which does not offer sufficient basis to justify personal jurisdiction in California. I understand that your complaint's basis is that they are using the [tucows.com](https://www.tucows.com) hosted site and you accessed it in California but this alone does not mean they actively engage in California to subject them to jurisdiction in California.

For example, case law recognizes that "a general website listing and selling goods throughout the United States is not sufficient to establish 'purposeful direction.' *Cybersell*, 130 F.3d at 418 (mere advertisement or solicitation for sale of goods and services on a website, without 'something more,' does not give rise to specific jurisdiction in the plaintiff's forum); see also *Pebble Beach*, 453 F.3d at 1157 ('[W]hen a website advertiser does nothing other than register a domain name and post an essentially passive website and nothing else is done to encourage residents of the forum state, there is no personal jurisdiction.' (internal quotation marks and alterations omitted))." *Aether, LLC v. UNT Holdings, Ou*, 2:21-cv-00313-MEMF(Ex), at *14 (C.D. Cal. Oct. 31, 2022)

The Ninth Circuit in *Rio Properties, Inc. v. Rio Intern. Interlink*, 284 F.3d 1007, 1020 (9th Cir. 2002) confirmed the "something more" limitation on personal jurisdiction, quoted below:

RIO alleged that RII operated a website that "allows customers throughout the United States and the world to place wagers on sporting events." RII responded that merely operating an Internet advertisement or a passive website cannot confer personal jurisdiction. While RII's assertion may be true, see *Panavision*, 141 F.3d at 1322; *Cybersell*, 130 F.3d at 418, operating even a passive website in conjunction with "something more" — conduct directly targeting the forum — is sufficient to confer personal jurisdiction. *Panavision*, 141 F.3d at 1322.

Here, RIO sufficiently alleged that RII engaged in "something more" than the operation of a passive website. In its complaint, RIO alleged that RII "specifically targeted consumers" in Nevada "by running radio and print advertisements in Las Vegas." In particular, RIO alleged that RII advertised in the Football Betting Guide '98 Preview and the Daily Racing Form.

Rio Properties, Inc. v. Rio Intern. Interlink, 284 F.3d 1007, 1020 (9th Cir. 2002)

A review of the [bonzai.com](https://www.bonzai.com) website does not appear to have any purposeful direction to California and is thus not active enough to rise to the level of purposeful direction.

We further plan to dismiss for failure to state a claim.

The relevant statute, 15 USC 1125(d) requires the alleged trademark to have been distinctive at the time of registration of the domain name. Your complaint alleges that your business was started in 2008. As you can see from the WHOIS data for the domain name, it was registered in 1998. Hence, the domain name obviously pre-dates your alleged rights by nearly ten years. Under *GoPets Ltd. v. Hise*, 657 F. 3d 1024 (9th Cir., 2011), the critical date is that of the initial registration of the domain name:

"Because Edward Hise registered [gopets.com](https://www.gopets.com) in 1999, long before GoPets Ltd. registered its service mark, Digital Overture's re-registration and continued ownership of [gopets.com](https://www.gopets.com) does not violate § 1125(d)(1)."

In addition to the obvious 1998 registration date of the domain name, you can easily see the domain name was in use by Digimedia.com in this 2004 Internet Archive capture, which clearly identifies Digimedia.com L.P. as the site operator - more than four years prior to your claim to have started an auto detailing business:

<https://web.archive.org/web/20040624010121/http://bonzai.com/>

Trademark claims are not retroactive. Your complaint does not allege possession of relevant rights at the time of registration of the domain name as required under the statute. Furthermore, there are no facts on which your claim to have started a business in 2008 entitles you to a domain name which Digimedia.com L.P. has owned and operated for many years prior to the existence of your claimed business. We understand from other filings that you are upset at having lost the domain name [bonzaiautodetailing.com](https://www.bonzaiautodetailing.com), but Digimedia.com L.P. has nothing to do with that domain name or your loss of control of it.

Also provided are copies of the federal removal action, and removal notice in state court, attached and in the following Google Drive folder:

https://drive.google.com/drive/folders/1ie7UWBs3hADG0Nz_dI4LjAK2XluwW7sd?usp=sharing

Please advise if you will stipulate to dismissal or oppose.

--

Christopher Anderson, Law Clerk

Long and Associates

1920 Hillhurst Avenue, #1139

Los Angeles, CA 90027

C: (626) 715-9960

F: (213) 915-3133

E: chris.lxa@gmail.com

2 attachments



2023-08-07 Civ Cover.pdf

617K



2023-08-07 Ntc-Removal w Exhs 1 (Filed in state).pdf

8204K

EXHIBIT B



Christopher Anderson <christopher.lxa@gmail.com>

RE: Schmidt v. Digimedia: Meet and Confer

Michael A. Long <mlong@aexius.com>

Fri, Aug 11, 2023 at 2:58 PM

To: "korieschmidt1@gmail.com" <korieschmidt1@gmail.com>

Cc: Christopher Anderson <christopher.lxa@gmail.com>, john@johnberryhill.com, korie_schmidt@csumb.edu

Dear Mr. Schmidt:

In follow-up to my earlier meet and confer email below on August 8, I called your phone number (310) 600-2278 and left a message on your voicemail, which from the voicemail greeting appears to be a business line for SEO doctors.

Please call me directly to complete our meet and confer at (310) 625-3395.

Warm Regards,
Michael Long

[Quoted text hidden]

--

Michael A. Long, Esq.

Long and Associates

CA State Bar No. 266555

[1920 Hillhurst Avenue, #1139](#)

[Los Angeles, CA 90027](#)

C: (310) 625-3395

F: (213) 915-3133

E: mlong@aexius.com



Christopher Anderson <christopher.lxa@gmail.com>

RE: Schmidt v. Digimedia: Meet and Confer

Michael A. Long <mlong@aexius.com>

Fri, Aug 11, 2023 at 10:23 PM

To: TheSEODOctors@gmail.com

Cc: Christopher Anderson <christopher.lxa@gmail.com>, john@johnberryhill.com, korie_schmidt@csumb.edu, "korieschmidt1@gmail.com" <korieschmidt1@gmail.com>

Forwarding to your other email.

[Quoted text hidden]

EXHIBIT C



Expected delivery date specified
Domestic shipments include \$100
USPS Tracking® service included
Limited international insurance.**
When used internationally, a cust
insurance does not cover certain items. For
Domestic Mail Manual at <http://pe.usps.com>
See International Mail Manual at <http://pe>.

FLAT RATE ENVI
NE RATE ■ ANY WEIGHT

TRACKED ■ INSU

P	\$13.70	Origin: 91505 07/11/23 0510260105-07
PRIORITY MAIL®		
		0 Lb 7.30 Oz RDC 01
EXPECTED DELIVERY DAY: 07/14/23		
SHIP TO:	C002	
	1057 N BRYANT AVE STE 150B EDMOND OK 73034-3265	
USPS SIGNATURE® TRACKING #		
		
9510 8150 7045 3192 3671 01		
		

FROM:

KORIE SCHWARTZ
1732 AVIATION BLVD #503
REDONDO, BEACH, CA 90278

TO:

SCOTT DAY, DIGIMEDIA.com
1057 N. BRYANT, STE 150B
EDMOND, OK 73034



EP14F July 2022
OD: 12 1/2 x 9 1/2



USPS.COM/PICKUP

EXHIBIT D

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): KORIE SCHMIDT IN PRO PER 1732 AVIATION BLVD. #503 REDONDO BEACH, CA 90278 TELEPHONE NO: (310) 600-2278 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):		FOR COURT USE ONLY FILED Superior Court of California County of Los Angeles JUL 12 2023 David W. Slayton, Executive Officer/Clerk of Court By: C. Grijalva, Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES STREET ADDRESS: 111 N. HILL ST. MAILING ADDRESS: LOS ANGELES, CA 90278 CITY AND ZIP CODE: BRANCH NAME: STANLEY MOSK		
PLAINTIFF/PETITIONER: KORIE SCHMIDT DEFENDANT/RESPONDENT: SCOTT DAY DIGIMEDIA.COM, L.P.		CASE NUMBER: 23STCV16148
PROOF OF SERVICE OF SUMMONS		Ref. No. or File No.:

(Separate proof of service is required for each party served.)

- At the time of service I was at least 18 years of age and not a party to this action.
- I served copies of:
 - ☒ summons
 - ☒ complaint
 - ☒ Alternative Dispute Resolution (ADR) package
 - ☐ Civil Case Cover Sheet (served in complex cases only)
 - ☐ cross-complaint
 - ☒ other (specify documents): **PLAINTIFF'S STATEMENT FIRST OF APPLICABLE LAWS**
- Party served (specify name of party as shown on documents served):
SCOTT DAY DIGIMEDIA.COM LP.
 - ☐ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):
- Address where the party was served: **1057 N. BRYANT, SUITE #150 B**
EDMOND, OK 73034
- I served the party (check proper box)
 - ☐ **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): (2) at (time):
 - ☐ **by substituted service.** On (date): at (time): I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3):
 - ☐ **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - ☐ **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - ☐ **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - ☐ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): from (city): or ☐ a declaration of mailing is attached.
 - ☐ I attach a declaration of diligence stating actions taken first to attempt personal service.

PLAINTIFF/PETITIONER: <u>KORIE SCHMIDT</u>	CASE NUMBER: <u>48</u>
DEFENDANT/RESPONDENT: <u>SCOTTDAY DIGIMEDIA.COM LP</u>	<u>23STCV16158</u>

5. c. ☐ by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): _____ (2) from (city): _____
- (3) ☐ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (Attach completed Notice and Acknowledgement of Receipt.) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)

- d. ☒ by other means (specify means of service and authorizing code section):

PRIORITY MAIL with SIGNATURE CONFIRMATION (CCP 415.40)

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. ☒ as an individual defendant.
- b. ☒ as the person sued under the fictitious name of (specify): DIGIMEDIA.COM LP
- c. ☐ as occupant.
- d. ☐ On behalf of (specify):

under the following Code of Civil Procedure section:

- | | |
|---|---|
| <input type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: |

7. Person who served papers

- a. Name: DANIELA SCHMIDT
- b. Address: 1408 N. ANAHEA MESA AZ 85207
- c. Telephone number: 480-519-5610
- d. The fee for service was: \$ _____
- e. I am:

- (1) ☒ not a registered California process server.
- (2) ☐ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☐ a registered California process server:
- (i) ☐ owner ☐ employee ☐ independent contractor.
- (ii) Registration No.: _____
- (iii) County: _____

8. ☐ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: 7-11-2023

DANIELA SCHMIDT

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)

[Signature]

(SIGNATURE)

PROOF OF SERVICE

CERTIFICATE OF SERVICE

On **August 21, 2023**, I certify that on the date undersigned, I filed the foregoing document with the Court's CM/ECF system which provides notice of the same to the following:

Korie Schmidt
1732 Aviation Blvd. #503
Redondo Beach, CA 90278
Tel: (310) 600-2278
Email: korieschmidt1@gmail.com
Plaintiff In Pro-Per

Executed on **August 21, 2023** in Los Angeles, California.

/s/ Michael A. Long
Michael A. Long